

<p align="center">SUMMARY OF MAJOR CHANGES TO DoD 7000.14-R, VOLUME 10, CHAPTER 18 “CONTRACTOR DEBT COLLECTION”</p> <p align="center">Substantive revisions are denoted by a ★ preceding the section or paragraph with the substantive change or revision.</p>		
PARA	EXPLANATION OF CHANGE/REVISION	PURPOSE
180101	Addresses the Department’s implementation of the revised Federal Claims Collection Standards (FCCS), Title 31, Code of Federal Regulations, Chapter 9, Parts 900-904.	Establishes new policy requirements.
180102	Emphasizes the Department’s implementation of the statutory requirement (i.e., the Debt Collection Improvement Act of 1996 (DCIA)) to transfer eligible delinquent debts to the Department of the Treasury for collection and cross-servicing.	Establishes new requirements.
1802	Adds a new section titled, “Coverage,” that clarifies that debts owed by contractors, vendors, assignees, and business entities are covered by this chapter. General policies and procedures on indebtedness, including individual indebtedness, are covered in Volume 5, Chapter 28, “General Provisions of Indebtedness” of this Regulation.	Adds a new section to clarify policy guidance.
180302	<p>Establishes required actions needed to carry out an effective debt management program and to protect the government’s interests. These requirements include:</p> <ul style="list-style-type: none"> A. Identify and Correct Debt Causes B. Establish Debt Controls C. Participate in Debtor Information Exchange Programs D. Participate in Debt Collection Partnering E. Document Debt Collection Activity F. Obtain Debtor Mailing Address From The Department of the Treasury, Financial Management Service, as needed G. Determine Debt Amounts for Compromise, Suspension and Termination H. Implement Collection Priorities for Multiple Debts I. Establish Accounting Procedures For Collections J. Automate Debt Collection and Reporting Systems K. Identify and Recover Overpayments Through Recovery Auditing 	Summarizes and highlights new debt management requirements, or current guidance for emphasis, as required or suggested by the Congress, Department of the Treasury, General Accounting Office and/or the Department.

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180304.B	Establishes the requirement that the Component contracting officer, or designee, shall keep the accounting office apprised of all activities associated with debt collection actions, including notices issued and received, to ensure that receivables are established, aged, collected, written-off, and closed out, in the appropriate accounting month, and in accordance with Volume 4, Chapter 3 of this Regulation.	Establishes a new policy requirement.
180401	Revises the Department’s policy on the issuance of demand letters to establish a requirement that upon determination that a debt exists from a contractor, vendor, assignee, or business entity, an immediate written demand for payment shall be made within 5 days after recognizing the debt.	Revises policy and procedures for the issuance of demand letters.
180403	Revises the Department’s policy on the issuance of demand letters to state that only one demand letter is required. Additional demand letters may be issued on a case-by-case basis, as appropriate.	Revises policy and procedures for the issuance of demand letters.
180601	Establishes the statutory basis for the mandatory transfer of debts over 180 days delinquent to the Department of the Treasury for collection.	Establishes new policy requirement.
180602.B	Describes the process for transferring eligible debts \$600 or greater to the DFAS-Columbus, Debt Management Office, the Department of the Treasury, and/or the Department of Justice for debt processing, cross-servicing, and/or litigation, respectively. Reference is made to a cross-servicing agreement recently entered into by the DFAS with the Department of the Treasury, Financial Management Service.	Revises current policy that implements the use of the Department of the Treasury’s cross-servicing program.
180602.C	Describes the services that will be performed by the Department of the Treasury cross-servicing program.	Establishes new policy and cross-servicing processes.

**SUMMARY OF MAJOR CHANGES TO
DoD 7000.14-R, VOLUME 10, CHAPTER 18
“CONTRACTOR DEBT COLLECTION”**

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PARA	EXPLANATION OF CHANGE/REVISION	PURPOSE
180701	Changes the basis for calculating interest from the Prompt Pay Act interest rate to the Current Value of Funds (CVF) rate. This change is consistent with Federal Acquisition Regulation and Title 31, United States Code, Chapter 37.	Corrects an existing policy.
180704	Adds a new paragraph titled “Penalty Charges” that includes new guidance for the assessment of penalty charges on any debt principal that is delinquent beyond 90 days.	Adds a new policy requirement.
180802.A through 180802.C	Revises guidance on crediting, accounting, and reporting of disputed collections under the Contract Disputes Act in accordance with Title 10, United States Code, section 2410m, “Retention of amounts collected from contractor during the pendency of contract dispute.”	Revises current guidance.

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CHAPTER 18

CONTRACTOR DEBT COLLECTION1801 APPLICABILITY

★ 180101. General. It is the policy of the Department of Defense (DoD) that collection of debts owed to the government shall be promptly and aggressively collected, with follow-up action(s) taken as necessary, to recover outstanding debts. This chapter issues policy and procedures for the collection and recovery of those debts that are owed by contractors, vendors, assignees, and business entities, and the transfer of eligible delinquent debts to the Department of the Treasury for collection and cross-servicing under the provisions of the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982, the Debt Collection Improvement Act of 1996, and the revised Federal Claims Collection Standards regulation of 2000.

★ 180102. The Federal Claims Collection Standards (FCCS). The FCCS regulation, issued jointly by the Department of the Treasury and the Department of Justice (DoJ), is codified at Title 31, Code of Federal Regulations, Chapter 9, Parts 900 - 904 (31 C.F.R. 900-904). The provisions of 31 C.F.R. 901.3, "Collection by administrative offset," are hereby adopted without change by reference. These provisions implement the statutory requirement for mandatory referrals of eligible delinquent debts to the Department of the Treasury.

★1802 COVERAGE

Policies in this chapter apply to debts owed to the United States by contractors, vendors, assignees, and business entities consistent with the Federal Acquisition Regulation (FAR) and the DoD Federal Acquisition Regulation Supplement (DFARS). Policies in this chapter are not applicable to any debts owed by the U.S. Government. Volume 5, Chapter 28, "General Provisions on Indebtedness," of this Regulation covers general policies and procedures for the administrative collection of debts, including individual debts, owed to or collected by the Department. Refer to Volume 5, Chapter 25, "Questionable and Fraudulent Claims," for policies and procedures for the handling of indebtedness associated with fraud.

1803 COLLECTION OF DEBTS

The Department's policy is effectively and proactively to collect debts owed to the Department. Uncollectible eligible debts up to 180 days delinquent shall be transferred to the Department of the Treasury as soon as a determination is made that despite the Department's due diligence to recover debts voluntarily, additional efforts will not result in the voluntary recovery of debts. Referrals of debts to the Department of the Treasury shall be made in accordance with terms of the agreement between the Defense Finance and Accounting Service (DFAS) and the Department of the Treasury. (See paragraph 180602, "Debt Transfers to the Department of the Treasury.")

180301. Definitions.

A. The terms, “debt” and “claim,” as used in this chapter are synonymous and interchangeable. They refer to an amount of money, funds, or property that have been determined by an agency official to be due to the United States from any person, organization, or entity, except another federal agency.

B. “Delinquent debt” refers to a debt that has not been paid by the due date specified in the agency’s initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement).

C. Debts “eligible for transfer to the Department of the Treasury” include debts that have been delinquent for a period up to 180 days for which the Department of the Treasury may take appropriate action to service, collect, or compromise the debt or to suspend or terminate collection action.

D. Debts that are “not eligible for transfer to the Department of the Treasury” include debts that:

1. Are in litigation or foreclosure
2. Will be disposed of under an approved asset sale program
3. Have been referred to a private collection contractor for a period of time acceptable to the Department of the Treasury
4. Are at a debt collection center for a period of time acceptable by the Department of the Treasury
5. Will be collected under internal offset procedures within 3 years after the debt first became delinquent
6. Are exempt by the Department of the Treasury based on a determination that the exemption is in the best interest of the United States.

★ 180302. Debt Management Requirements. In order to protect the government’s interests, officials of DoD Components (including contracting officers, contract financing offices, disbursing officers, accounts receivable staff, and auditors) shall cooperate fully with each other to ensure the following required actions are accomplished.

★ A. Identify and Correct Debt Causes. Procedures shall be established at all organizational levels, as necessary, to identify the causes of indebtedness, delinquencies, and defaults. Corrective actions shall be taken to eliminate those causes and reduce the number of debts subject to collection.

★ B. Debt Controls. Effective controls shall be established over debts for collection according to requirements specified in this Regulation, consistent with other applicable statutes and regulations. Debts shall be aged so that timely and appropriate collection and follow-up action can be accomplished. Refer to Volume 4, Chapter 3, “Receivables,” of this Regulation for guidance on the recording and reporting of public and federal receivables. Debts shall be validated by the debt-transferring and debt-receiving offices.

★ C. DoD Debtor Information Exchange Program. DoD Components shall participate in governmental and DoD debtor information exchange programs.

★ D. Debt Collection Partnering. DoD Components shall cooperate with each other, other federal agencies, and other private entities, as requested, to collect delinquent contractor or vendor debts.

★ E. Documenting Collection Activity. DoD Components shall document their administrative debt collection activities, including the basis for debt compromise, suspension, or termination of collection action, and retain the documentation in individual debtor files.

★ F. Obtaining Debtor Mailing Address. Participation in the Department of the Treasury Cross-Servicing or Treasury Offset Programs enables the Department to obtain debtors’ addresses from the Department of the Treasury, Financial Management Service, Production Systems and Operations Branch. Contact the Financial Management Service at (202) 874-6901 to obtain this information. Mailing addresses obtained in this manner shall be used to enforce the collection of debts and may be disclosed to other agencies and collection agencies for the purpose of collecting debts owed to the Department of Defense. A mailing address obtained from the Department of the Treasury may be disclosed to a commercial credit bureau only for obtaining a commercial credit report. However, this disclosure limitation no longer applies once a debtor’s mailing address is independently confirmed.

★ G. Determining Debt Amount for Compromise, Suspension, and Termination. Debts shall not be subdivided to avoid monetary ceilings for debt compromise, suspension, or termination of collection actions. A debtor’s liability arising from a particular transaction shall be considered a single debt in determining if a debt is \$100,000 or greater for purposes of compromise, suspension, or termination. (See Volume 5, Chapter 31, “Debt Compromise, Suspension, Termination, Write-Off, Discharge, Remission, and Waiver,” of this Regulation for additional information.) Nothing in this chapter exempts accountable officials from pecuniary liability arising from erroneous payments and loss of funds as discussed in Volume 5 of this Regulation.

★ H. Collection Priorities for Multiple Debts. Internal (DoD) administrative offsets shall continue until a debt is paid prior to offsetting or liquidating subsequent debts. However, consideration shall be given to applicable statutes of limitations and collection priorities to ensure that maximum amounts of indebtedness are collected within the allowed recovery period. Unless otherwise prescribed by statute or regulation, debts owed to more than one DoD Component or federal agency shall be collected in the following priority sequence for DoD administered collection programs (within a class of debt, the oldest debt shall be collected first):

1. Debts owed to the Creditor Component
2. Debts owed to other DoD Components
3. Debts owed to other federal agencies.

(NOTE: See Volume 5, Chapter 28, “General Provisions of Indebtedness,” of this Regulation for additional information on collection priorities for multiple debts once the debts are transferred to the Department of the Treasury for collection.)

★ I. Crediting Collections to Accounts. If collected in time to be credited to a current or expired fiscal year appropriation, debt principal amounts collected shall be refunded to the appropriation or account originally charged when funds were disbursed or to the appropriation or account originally designated to receive credit as a result of a sale of goods or services. Otherwise, debt principal proceeds due to lapsed appropriations shall be credited to the Treasury Miscellaneous Receipt Account as designated by law. Interest, penalties, and administrative costs received in conjunction with delinquent debt collection also shall be credited to the appropriate Treasury Miscellaneous Receipt Account in accordance with Volume 4, Chapter 3, “Receivables,” of this Regulation.

★ J. Automating Debt Collection and Reporting Systems. Debt collection and reporting systems, automated to the extent it is feasible and cost effective, shall be used for recording, processing, and controlling debts. The Contractor Debt System (CDS) shall be used by the DFAS-Columbus, Debt Management Office (DFAS-CO (BKRD/CC)) to suspense and track new and existing contractor debt.

★ K. Recovery Auditing. The use of contingency fee auditing services contracts to identify and recover contractor overpayments is encouraged within the Department, on a case-by-case basis, particularly for debts arising from overpayments of the Working Capital funds. Components shall coordinate the use of such contracts with the Defense Contract Audit Agency to ensure that recovery auditing is performed in a manner that best serves the Department’s requirement to collect debts owed to the Department.

180303. Collections by Disbursing Officers

A. Disbursing officers are officials designated to make payments under a contract and to receive payments for amounts due to the government. (See the Defense Federal Acquisition Regulation Supplement (DFARS) 232.605.) Disbursing officers are responsible for collecting the amount of an overpayment resulting from an erroneous payment, duplicate payment, or dual negotiation of an original and recertified U.S. Treasury check. However, when a contract modification (downward adjustment) is issued after the date of a disbursement that causes a contract to be in an overpayment status, the result of that modification is not an erroneous payment with respect to this chapter. The disbursing officer shall contact the procuring contracting officer or the administrative contracting officer (the individual who issued the modification causing the

overpayment) to ensure that a demand letter is sent to the contractor for recovery of funds.

B. For most types of contract debts, the contracting officer has the primary responsibility for determining the amounts of and ensuring collection of the contract debt. When a contracting officer or other authorized official requests that a disbursing officer recover contracting officer debts and provides a copy of the contract to the disbursing officer, including the payment dates and amounts due to the contractor, the disbursing officer shall recover the debt. If the contracting officer or other designated official receives the contractor's check, the check should immediately be sent to the disbursing office, with a request for confirmation of receipt of the payment.

180304. Debt Collection Initiated by Contracting Officers or Designees

A. Unless otherwise prescribed, collection of contractor debts described below shall be initiated by the appropriate Component contracting officer, or designee, in accordance with the procedures in the Federal Acquisition Regulation (FAR), as supplemented by the DFARS, and this Regulation.

1. Damages or excess costs related to defaults in performance.
2. Breach of contract obligations for progress payments, advance payments, or payments for government furnished property or material.
3. Government expenses to correct defects.
4. Overpayments for errors in quantity, billing or deficiencies in quality.
5. Retroactive price reductions resulting from contract price redetermination or for determination of prices under incentive type contracts.
6. Overpayments disclosed by quarterly statements required under price redetermination or incentive contracts.
7. Delinquency in contractor payments due under agreements or arrangements for deferral or postponement of collections.
8. Reimbursement of costs, as provided in the FAR, subparts 33.102(b) and 33.104(h)(1), paid by the government where a postaward protest is sustained as a result of an awardee's misstatement, misrepresentation, or miscertification as provided in the FAR subpart 33.104(h)(8).

★ B. The Component contracting officer, or designee, shall keep the applicable accounting office apprised of all collection and offset transactions, including all notices issued or received, that affect the Component's accounting records. Communication of the foregoing activity shall be performed in the accounting month that the activity occurred. These actions will ensure that

receivables are established, aged, collected and written-off in the accounting records and identified in reports as required in Volume 4, Chapter 3 of this Regulation.

1804 DEMAND FOR PAYMENT

Written demand for repayment of debts shall be made promptly, and in terms that informs the debtor of the consequences of failing to cooperate with the Department to resolve the indebtedness. Priority shall be given first to voluntary repayment prior to initiating involuntary measures for recovery of debts. Repayment measures include one or more of the following activities: internal debt recovery processes by the Department (through installment agreements, internal administrative offsets, and/or referral of the debt to the DFAS-CO (BKRD/CC) for further processing), and/or transfer to the Department of the Treasury for cross-servicing. Transfer of debts to the Department of Justice for litigation also may be required. NOTE: Nothing in this chapter is intended to preclude a DoD Component from demanding the return of specific property, or alternatively, the payment of the value of the property.

★ 180401. Demand Letters. Upon determination that a debt exists from a contractor, vendor, assignee, or business entity, make an immediate written demand for payment within 5 working days after recognizing the debt. Recover debts under \$600 normally through established internal DoD payment offset procedures.

A. Demand Letters Issued by Disbursing Officers. Disbursing officers are the officials designated responsibility for issuing a demand letter under paragraph 180303, above. (Refer to paragraph 180602, below, for procedures to process a debt of \$600 or greater that has not been resolved within 90 days following issuance of an initial demand letter.)

B. Demand Letters Issued by a Contracting Officer or Other Designated Official

1. The appropriate Component contracting officer, or other designated official, shall initiate collection of contractor debts, as described below, in accordance with procedures in this chapter. (Also refer to the FAR, subpart 32.6, as supplemented by the DFARS, subpart 232.6, “Contractor Debts.”) Issue demands for payment as soon as the contracting officer has determined the amount of refund due. Contracting officer demands shall be issued consistent with requirements of the applicable FAR or DFARS provisions associated with the specific type of debt involved (e.g., FAR 15.804-7(b)(7) for defective pricing and FAR 30.602-2(c) for noncompliance with Cost Accounting Standards (CAS)).

2. The demand letter shall direct the contractor to make payment for the debt to the disbursing office, or in the case of terminations for default, to the accounting office.

3. The contracting officer shall send a copy of each demand letter to the disbursing office and request acknowledgement of receipt. Contracting officers shall furnish documents to the disbursing office that identify the distribution of the principal amount of the debt by appropriation, preferably attached to the disbursing office copy of the demand letter. NOTE: The

deobligation of funds on a Standard Form (SF)-30, “Amendment of Solicitation/Modification of Contract” does not give sufficient notice of debt disposition.

4. The contracting officer shall follow up periodically with the disbursing office to ensure that contract debts have been collected and credited to the proper appropriations.

180402. Demand Letter under the Provisions of the Cecile Industries Decision. Previous legal decisions have upheld the government’s right to offset contract debts. (The decision by the Court of Appeals for the Federal Circuit in Cecile Industries, Inc. v. Cheney, 995 F.2d 1052 (Fed.Cir. 1993), held that the Debt Collection Act of 1982 does not govern the government’s common law right to offset contract debts. With respect to the Cecile decision, a demand letter for payment of contract debts that are determined to be recovered internally by the Department through offsets should not make reference to 31 U.S.C. 3176.) The demand letter to contractors indebted to the government shall include the following:

- A. A description of the debt, including the amount.
- B. A statement stating that payment should be made in full within 30 days from the date of the demand letter.
- C. The address to which payment should be sent (and notice that the check, or wire transfer when applicable, shall be made payable to the “U.S. Treasury”).
- D. Notification that any amounts not paid within 30 days from the date of the demand letter shall bear interest from the date of the demand letter, or from any earlier date specified in the contract, if applicable, and the rate that shall be used for calculating interest.
- E. Notification that the principal and interest shall be subject to collection by offset if the debt is not paid within 30 days from the date of the demand letter.
- F. The name, address, and phone number of a contact person or office within the agency.
- G. A statement in the initial demand letter when the amount of the debt is \$600 or more, that the indebtedness shall be transferred to the DFAS-CO (BKRD/CC) for further collection action.
- H. Any available documentation that substantiates the indebtedness should be included with the demand letter.

★ 180403. Number of Demand Letters. It is departmental policy that only one demand letter is required. A second, or additional, demand letter(s) may be issued on a case-by-case basis when the debt is not recovered or active measures to resolve the indebtedness have not been initiated, after 30 days from the date of issuance of the initial demand letter.

180404. Maximum Time Limitations for Collecting Debts. Title 28 United States Code, section 2415, “Time for Commencing Actions brought by the United States,” and 31 U.S.C 3716, “Administrative Offset,” promulgate time limitation requirements for collecting debts under this chapter. Based on the statute of limitation, agencies are barred from filing a formal complaint to pursue a collection action under this chapter after the expiration of the later of the following dates: 6 years from the debt repayment due date, or within 1 year after a final decision has been rendered in an administrative proceeding. In the event that issuance of a later partial payment or written acknowledgment of debt occurs, the time limitation for collection action shall begin anew at the time of each such payment or written acknowledgment of debt. Administrative offsets of payments, however, may continue for up to 10 years. Accordingly, the collection of contractor debts should be pursued in accordance with the time limitations specified in 28 U.S.C. 2415 and 31 U.S.C. 3716.

1805 INTERNAL ADMINISTRATIVE OFFSETS

Recover debts internally within the Department, to the extent practicable, by voluntary repayment of the debt by the debtor or by administrative offset(s) of other payments owed to the contractor. The contractor shall be required to liquidate debts either by payment in a lump sum on demand, or by credit against unpaid bills due the contractor, unless an installment agreement has been entered into or a deferment of collection has been approved (see FAR 32.606(d)). After 30 days have elapsed since the initial demand letter was mailed and no payment has been received, offset the amount of a contractor’s indebtedness against other monies that are owed the contractor.

180501. Offset as a Deduction on a Public Voucher. FAR subpart 32.611 allows for offsetting contractor payments to liquidate debts owed by the contractor if an explanation is given to the contractor. Offsets (that include appropriate administrative charges) shall be made against the same contract that gave rise to the debt, provided that payments are scheduled under that contract. Effect offsets against amounts due the contractor under other contracts only when offsets against the contract that gave rise to the debt cannot be accomplished. The public voucher must be approved and the accounting classification charged for the total amount being settled with no regard for the deduction being applied. Prominently annotate the face of the voucher showing the amount withheld and the accounting classification credited to ensure that only the adjusted net amount is paid to the contractor. A notation with the appropriate information also shall be made that adequately informs the payee of the reason(s) for the deduction.

A. Considerable discretion is needed to determine when an offset is appropriate. Some businesses prefer that their debts be liquidated in such a manner. If a contractor indicates agreement in writing to the disbursing office, the disbursing office may effect an offset prior to the expiration of the due date indicated in the demand letter. Other contractors may prefer to make a remittance by check shortly after the due date. In either of these instances, an offset may result in collecting the debt twice, thereby requiring a refund of a collection. Another problem may arise when a remittance has not been forthcoming, but the disbursing office is unaware of whether the contractor will be submitting any invoices in the near future.

B. Processing an offset is more complex than processing the receipt of a remittance; therefore, in these cases, the disbursing office should encourage contractors to submit their

payments by check or wire transfer. Interest charges shall be computed through the date of an offset, and the expenses associated with effecting an offset shall be included as an administrative cost as mentioned in section 1807, below. Offsets normally shall not be accomplished when there is an existing assignment of claims associated with the contractor. Disbursing office personnel shall seek guidance from their legal staff, as appropriate, in determining whether an offset may be taken when an assignment of claims exists.

180502. Credit Memoranda

A. The demand letter shall indicate that a credit memorandum is not an acceptable means for liquidating indebtedness; however, as an exception, a credit memorandum may be accepted under special circumstances and only when there is a payable invoice to which the credit can be applied. For example, a credit memorandum may be acceptable when a contractor is the original discoverer of the error that led to the indebtedness and voluntarily submits a credit memorandum to the disbursing office without having received a demand letter. The contractor should furnish the disbursing office, upon request, an invoice number, date, and the amount of the debt to be offset against the invoice, according to the credit memorandum.

B. A contractor may indicate on an invoice, or on a progress payment request, that the amount of the credit memorandum shall be deducted from the amount due from the government. In all other instances, a determination must be made on the most efficient manner in which the debt can be recovered. In making this determination, give consideration both to the relative costs that would be incurred by the Department under each option, and to the method that is expected to result in liquidation of the debt at the earliest date. The latter factor is dependent upon the expected volume and frequency of incoming invoices that are susceptible to administrative offset. Regardless of the method selected, the disbursing office shall acknowledge receipt of the credit memorandum and inform the contractor of its disposition. If direct remittance is required, the acknowledgement shall contain a statement, such as: "This is to acknowledge receipt of your credit memorandum 14245, dated December 14, 2xxx. We cannot accept this document as liquidation of your indebtedness, and must ask that you remit a check to the following address: _____." If an offset is accomplished, the disbursing office's letter shall contain a statement such as: "This is to acknowledge receipt of your credit memorandum 67890, dated June 12, 2xxx. We have offset the amount of your debt against your invoice A654Z, dated June 5, 2xxx." Receipt of a credit memorandum by the due date (where the due date is stated in the demand letter) does not preclude a charge of interest and administrative costs.

180503. Payment Schedule

A. Whenever possible, payment, including deferred payment, of debts owed the government by contractors shall be made in one lump sum amount.

B. When a debtor contractor is able to establish sufficient justification, a series of installment payments may be approved that will ensure liquidation of the debt within a reasonable period of time. In accordance with 31 C.F.R. 901.8, when feasible, installment payments should be sufficient in size and frequency to liquidate the government's claim within 3 years. Interest and

administrative fees shall be computed and assessed for each payment of outstanding debt. If the contractor contends that a repayment period greater than 3 years is needed, that request shall be referred to the DFAS-CO (BKRD/CC) for a determination. The DFAS-CO (BKRD/CC) may approve a contractor's request for an installment agreement; however, the DFAS-CO (BKRD/CC) may not unilaterally deny a contractor's request for an installment agreement without first obtaining consent from the cognizant DoD Component's senior financial manager (FM) or designee. In the latter case, the DFAS-CO (BKRD/CC) shall send the request by certified mail to the office of the cognizant DoD Component's senior financial manager within 3 working days from the date the request was received. A copy of all repayment installment agreements entered into by the DFAS-CO (BKRD/CC) shall be forwarded to the accounting site that submitted the debt to the DFAS-CO (BKRD/CC), the disbursing officer, and the office of cognizant DoD Component's senior financial manager.

C. All remittances received, whether in lump sum or installments, shall be collected and deposited to the appropriate fund account upon receipt. The accounting site must be informed of all collections as the accounting site maintains the official accounts receivable records. (Refer to Volume 4, Chapter 3, "Receivables," for guidance on the proper recording and accounting procedures for the above remittances.) If the amount received is not adequate to liquidate the entire amount of the indebtedness, the remittance shall be applied in the following order:

1. outstanding penalties
2. administrative charges
3. interest
4. principal.

1806 TRANSFER OF DELINQUENT DEBTS

★ 180601. Statutory Provision. The Debt Collection Improvement Act of 1996 requires agencies to transfer for collection a debt or a claim that has been delinquent 180 days or more to the Department of the Treasury (or other approved debt collection center) for collection.

180602. Debt Transfers to the DFAS and to the Department of the Treasury. There are different procedures that apply to uncollectible debts under \$600 and \$600 or greater.

A. Delinquent Debts Under \$600. Delinquent debts under \$600 shall be written off after exhausting all reasonable remedies, including internal administrative offsets, to recover the debt internally within the Department. (See Volume 4, Chapter 3, "Accounts Receivables," of this Regulation for guidance concerning debt write-offs and close outs.) Although a debt is written off, collection of the debt through internal administrative offset still may be pursued until the debt is closed out. The transfer of a debt under \$600 to the Department of the Treasury, or to the Department of Justice (if accepted), shall be considered only when a determination is made that the recovery of the debt is in the best interest of the government.

★ B. Delinquent Debts \$600 or Greater. In order to enable subsequent debt collection efforts, including offsets, and permit the accumulation of adequate supporting data, the disbursing office may retain these debts up to a maximum of 90 days following the date of the initial demand letter.

1. Transfer of Debts to the DFAS-CO. The transfer of eligible debts (by certified mail) to the DFAS-CO (BKRD/CC) is required without delay prior to expiration of the 90 days when the debt referring office has gathered the requisite supporting data and is of the opinion that liquidation through remittance or offset is unlikely to occur. The DFAS-CO (BKRD/CC) shall issue a notification of debt acceptance to the debt referring office and ensure that the debt referring office and the office designated responsibility for maintaining the official accounting records, if not the debt referring office, of the receivable are notified of the referral, acceptance and the designated accounting site responsible for maintaining the accounting record so the loop can be closed. Upon receipt of notification of debt acceptance from the DFAS-CO (BKRD/CC), the referring disbursing or accounting site shall make the appropriate entries to take the receivable off their records and the cognizant DFAS site, based on data received from the DFAS-CO (BKRD/CC), shall commence recording the receivable. In compliance with paragraph 180705 below, administrative costs may be assessed for the expenses of transferring the debt.

2. Transfer of Debts to the Department of the Treasury. The DFAS-CO (BKRD/CC), shall refer eligible debts that are delinquent for up to 180 days to the Department of the Treasury, Financial Management Service (FMS), for debt collection and cross-servicing in accordance with the FMS-DFAS agreement. The DFAS-Arlington, Commercial Pay and Electronic Commerce Division (DFAS-DFV) shall maintain that agreement. DoD activities that seek to have a debt referred to the Department of the Treasury, Financial Management Service, or to the Department of Justice should seek assistance from its local legal office before contacting the DFAS-CO (BKRD/CC). Recovery and collection of debts transferred to the Department of the Treasury for cross-servicing are subject to the administrative offset provisions of 31 U.S.C. 3716.

3. Supporting Documentation. As stated above, the minimum amount of debt that may be referred to the DFAS-CO (BKRD/CC) is \$600. The minimum value may consist of several debts by the same contractor on various contracts. When a debt is transferred to the DFAS-CO (BKRD/CC), that debt shall be supported by the following documents that are legible and tabbed as follows for processing:

a. Copies of vouchers paid under the contract, which relate to the specific debt. For example, claims resulting from erroneous overpayments to the contractor need to be supported only by those paid vouchers that will assist in fully understanding the case. Submission of all paid vouchers under the contract is encouraged when such documentation is necessary for a full understanding of the claim. All paid vouchers submitted in support of claims transferred shall clearly indicate the date that the disbursement was made.

b. Amounts of collections/offsets and dates collections were received or payments were offset.

c. For duplicate payments and dual negotiated successor checks, copies of the negotiated checks obtained from the Department of the Treasury.

d. All demand letters, other correspondence, and written documentation of telephone or personal contacts with the debtor and others which are pertinent to the debt.

e. Any other documents needed to support a recommendation for compromise, discontinuance, or termination.

f. Taxpayer identification number (TIN)

g. Telephone number, address, and (if available) the name of a point of contact who is knowledgeable of the following entities:

- (1) Debtor
- (2) Contract Financing Officer making the transfer
- (3) Disbursing office making the submission
- (4) Accounting activity or funding site.

h. In the case of a determination of debt(s) resulting from an audit or contract reconciliation, a copy of the audit or reconciliation report, with sufficient supporting documentation to explain the conclusions.

i. The accounting classification/appropriation to which the principal portion and administrative fees of the debtor's payments should be deposited.

★ C. Department of the Treasury Cross-Servicing. The Department of the Treasury has established standard processes for accepting and collecting debts. These services are outlined below:

1. Demand letter issued
 2. Attempts to contact the debtor by phone
 3. Credit bureau reporting
 4. Offset of federal payments through the Department of the Treasury
- Offset Program
5. Referral to a private collection agency through a governmentwide contract administered by the Department of the Treasury

6. Recommendation, and upon the Department's concurrence, referral of debts to the Department of Justice

7. Collect debts through the administrative wage garnishment program.

Until a debt is referred to a private collection agency, the Department of the Treasury will actively pursue collection, including purchasing credit reports, skip-tracing, and negotiating compromise or repayment plans. Compromise and repayment plans shall be negotiated within the parameters established by the DoD.

D. Funds Accountability. After the transfer, the DFAS-CO (BKRD/CC) shall have full responsibility for collecting the delinquent debt. Funds accountability, however, does not transfer to the DFAS-CO (BKRD/CC). If an office other than the DFAS-CO (BKRD/CC) receives a payment after transfer of the debt, the office receiving the payment shall notify the DFAS-CO (BKRD/CC) by certified mail, within 3 workdays, of the receipt and disposition of the payment. When there are overcharges to appropriations or funds, the activity responsible for maintaining the official accounting records shall continue to maintain control over the receivables. The DFAS-CO (BKRD/CC) only maintains a memorandum accounts receivable record. The DFAS-CO (BKRD/CC) shall notify the FM representative of the cognizant DoD Component and the applicable DFAS site when the debt should be written off. In the case of dual negotiated successor checks, the DFAS-CO (BKRD/CC) also shall notify the accountable disbursing officer or settlement officer who previously had continued to reflect the deficit in his or her accountability reports. The DFAS-CO (BKRD/CC) notification provides the authority required for the accountable disbursing officer or the settlement officer to remove the deficit from his or her records. Nothing in this chapter, however, is intended to waive the disbursing officer's or accountable official's pecuniary liability for erroneous payments or for loss of funds discussed in Volume 5 of this Regulation.

180603. Debt Write-Off. When all means to recover the debt have been exhausted, and upon notification by the DFAS-CO (BKRD/CC) of a determination by the Department of the Treasury and/or the Department of Justice that a debt that was transferred to one or both of the foregoing Departments is uncollectible, the DFAS-CO (BKRD/CC) shall notify the financial management representative of the cognizant DoD Component by memorandum that the debt should be written off. A copy of that memorandum also shall be sent to the appropriate accounting, funding, and debt transferring office(s). The financial management representative, in turn, shall notify the appropriate accounting, funding and transferring site(s) that the debt must be written off from the official accounts receivable records. This will allow the accounting site (that maintains the official accounting records) to write off the debt (see Volume 4, Chapter 3, "Accounts Receivables," of this Regulation for guidance on write-offs of receivables).

180604. Close-out of Indebtedness. While collection action is suspended or terminated, a debt remains delinquent; further collection action may be pursued at a later date (within the allowable statutory time limit). When a debt is discharged, or "closed out," in full or in part, further collection action is prohibited. Before closing out a debt, the debt collection action must be terminated in

accordance with the requirements of 31 U.S.C. 3711, which requires the Department to sell a delinquent nontax debt upon termination of collection action if it is determined to be in the best interests of the government, and 26 U.S.C 6050P that requires that the Department file discharge report to the Internal Revenue Service upon discharging a debt. Components shall seek legal assistance through the local legal office to close out a debt.

1807 INTEREST, PENALTIES, AND ADMINISTRATIVE CHARGES

★ 180701. Interest Rate. In most cases, the debtor shall be assessed interest calculated using the Current Value of Funds (CVF) interest rate that is in effect on the date from which interest begins to accrue and remains fixed for the duration of the indebtedness. The CVF interest rate shall be provided to individual disbursing offices by the appropriate supporting DFAS site. The CVF interest rate shall not apply to debts where a statute, regulation, loan agreement or contract either prohibits such charges or explicitly fixes the charges that apply to debts involved.

180702. Calculating Simple Interest. Unless otherwise established in the specific contract, repayment agreement, statute, or regulation, interest is not assessed until the due date for payment of indebtedness has passed. Interest accrues, however, from the date on which the first demand letter is mailed or hand delivered to the debtor to the date the debt is paid in full. Therefore, the minimum amount charged for interest shall be for a 30-day period. When the due date passes without receipt of the required payment from the contractor, interest shall be computed by multiplying the principal amount of the debt by the applicable CVF interest rate divided by 360 days times the number of days in the interest period. NOTE: The Department of the Treasury annually or quarterly publishes the CVF rates in the Federal Register and in Treasury Financial Manual bulletins. Examples for calculation of interest charges are shown below.

Interest Period	Jan 15, 2000--Jan 31, 2000	
Principal	\$15,000	
Annual Rate	0.05	
Daily Rate	0.00014	
Days	17	
Amount		\$35.70
Interest Period	Jul 1, 2000--Dec 31, 2000	
Principal	\$15,000	
Annual Rate	0.05	
Daily Rate	0.00014	
Days	184	
Amount		\$386.40
Interest Period	Jan 1, 2001--Apr 30, 2001	
Principal	\$15,000	
Annual Rate	0.06	
Daily Rate	0.00017	
Days	120	
Amount		\$306.00
Total Interest		\$728.10

If there is an offset, or if the principal amount of the debt decreases for any other reason, the daily amount of interest needs to be recalculated, effective with the date of the change. Interest collected is deposited to the Treasury Receipt Account, 3210, "General Fund Proprietary Receipts, Defense Military, Not Otherwise Classified."

180703. Waiver Of Interest Charges

A. Interest may be waived on a case basis, e.g., when the disbursing officer or other authorized official determines that collection of interest charges would be against equity and good conscience, or not in the best interest of the United States. Frequently, a debtor will make remittance of the principal amount due to the government a few days past the established due date. Another common debtor practice is to pay the last amount billed, but fail to make allowance for the additional interest that accrues between the billing date and the remittance date. In such cases, disbursing offices shall determine if additional billing is warranted.

B. Interest in amounts less than \$50 shall not be billed. For example, a contractor owes \$1,330 (of which \$1,080 is the principal amount and \$250 is the interest amount) when the demand letter is sent out. Subsequently, the contractor submits a payment for \$1330, but payment is not received until after the due date. Interest of \$25 more accrues by the time payment is received. The disbursing office would waive the additional \$25 interest without pursuing further collection action on it, credit \$250 to interest, and credit \$1,080 to principal. When additional interest of \$50 or more accrues, each case shall be reviewed on an individual basis to consider the facts surrounding the case in order to make a determination on the assessment of interest charges. For example, when a contractor has made a good faith effort to make full payment of monies due, collection of additional charges would be against equity and good conscience, and additional interest may be waived.

★ 180704. Penalty Charges. Creditor organizations (i.e., organizations to which a debt is owed) shall assess a penalty charge of 6 percent per annum on any debt principal that is delinquent beyond 90 days. Penalty charges shall accrue from the date the principal amount owed becomes delinquent. Amounts received from a contractor or business entity are to be deposited in the Treasury Receipt Account 1099, "Fines, Penalties, and Forfeitures, Not Otherwise Classified."

180705. Administrative Costs. Administrative costs relate to only delinquent debts (i.e., debts not paid for 30 or more days from the date the demand letter was mailed). Administrative costs are assessed to cover expenses incurred in the recovery of the delinquent debts. The cost of sending an initial demand letter would not be included when calculating administrative costs because that expense is incurred whether or not the debt becomes delinquent. In contrast, costs associated with the calculation of interest and forwarding of the debt to the DFAS-CO are necessitated only because the debt is not paid when due (i.e., within 30 days after the date from which the notice is mailed when interest accrues) and subsequently becomes delinquent. Therefore, costs associated with these actions are included in the calculation of administrative costs. Administrative charges must be based on actual costs, or on an average based on actual costs. The costs may not arbitrarily be established. Additional administrative charges may be assessed, if needed (e.g., to collect the debt through payment offset procedures, or when transferring the debt to the DFAS-CO (BKRD/CC)). Excess amounts received

from a contractor or business entity are to be deposited in the Treasury Receipt Account, 3210, “General Fund Proprietary Receipts, Defense Military, Not Otherwise Classified.”

1808 DEFERMENTS AND DISPUTES UNDER THE CONTRACT DISPUTES ACT

180801. Deferments. Under the Contract Disputes Act of 1978, a contractor may appeal a decision of indebtedness to the ASBCA or through the United States court system. The contractor may request, in writing, for a deferment of debt payment until the appeal is decided (see FAR subpart 32.613). Although a contractor may use the term “deferment” when requesting postponement of a payment, a contractor’s request for a deferment for collection of indebtedness on a contract associated with an appeal should be sent to the contract financing office of the cognizant DoD Component by certified mail, within 3 work days from the date of receipt of that request (see FAR subpart 32.613 and DFARS subpart 232.108). The DFAS-CO (BKRD/CC) cannot approve or deny such a request for a deferment. When a disbursing office or the DFAS-CO (BKRD/CC) receives a request for deferment of a debt from a contractor in association with an appeal, the office receiving the request shall send the request, by certified mail, within 3 work days to the appropriate DoD Component’s contract financing office.

180802. Guidance On Crediting, Accounting, and Reporting on Disputed Collections Under The Contract Disputes Act of 1978

★ A. Crediting of Collections

1. When an amount, including interest and administrative fees, is collected from a contractor and the claim of the Military Department or Defense Agency to make the collection is disputed, or the contractor indicates it will be disputed, the collected amount may not be accounted for as settlement of the claim or debt. Interest, penalties, and fees will cease to accrue and the disputed amounts will be credited to a Treasury deposit account for separate accounting and control.

2. Collections normally shall be received by the disbursing or payment certifying office making or authorizing payments for the contract in dispute, but may be received by others, including the contract debt management office, DFAS-CO (BKRD/CC), contracting officers, contract administration officers, and legal offices. Upon making a collection in a disputed situation, the collection shall be documented as a disputed contract collection.

a. If the contract is centrally paid by the DFAS-CO, or if the contract has been submitted to the DFAS-CO (BKRD/CC) for debt collection, the collected amount(s) shall be deposited to the account of the DFAS-CO disbursing station symbol number (DSSN) 6551. Offices other than the DFAS-CO (BKRD/CC) making the collection and deposit of a disputed collection to this DSSN shall forward to the DFAS-CO (BKRD/CC) all documentation related to the collection for review and determination of proper account crediting and accounting control. If the office making the collection does not make deposits, the contractor’s check and related documentation shall be forwarded promptly to the DFAS-CO/FD. The collection voucher prepared for a disputed collection deposited to DSSN 6551 will serve as the basis for crediting the amount to the Treasury deposit account X6501, Small Escrow Amounts, with departmental prefix 97 and a designated

account for recording the collections. If the disputed collection is related to a contractual obligation in an appropriation account that is known to have met the requirements for closure in accordance with 31 U.S.C. 1552(a), or 31 U.S.C. 1555, the collection will further be indicated as a “closed appropriation account collection” as provided in 10 U.S.C. 2410m, and credited to a separate account for proper accounting control. DFAS-CO/FD shall maintain control of collections credited to these accounts and shall prepare all vouchers for disbursement or for transfer from the deposit account as provided in this Regulation.

b. If a disputed collection is made with respect to a contract not centrally paid by the DFAS-CO and not submitted for debt collection to the DFAS-CO (BKRD/CC), the collected amount shall be deposited to the account of the DSSN making payment on the contract. The collection shall be credited to the Military Service or Treasury deposit account X6501 with departmental prefix 17, 21, 57, or 97, as appropriate, and the account(s) for 10 U.S.C. 2410m collections of current and closed appropriations, as designated by the DFAS site responsible for departmental fund reporting.

c. The contracting officer, the contract administration officer, if applicable, and the Service or agency contract finance officer, or other authority for contract debt matters, shall be notified by the DFAS-CO (BKRD/CC) and by the disbursing officer responsible for deposits of any actions affecting the disputed collections. Conversely, these officers or offices shall inform the responsible disbursing officer and disbursing office and the DFAS-CO (BKRD/CC) of any actions taken that affect the disputed collection.

3. Collected amounts credited in accordance with subparagraph 180802.A.2, above, shall be retained, separately accounted for, and remain available for payment of:

- a. any settlement of the claim by the parties
- b. any judgement rendered in the contractor’s favor on an appeal of the decision on the claim to the ASBCA
- c. any judgement rendered in the contractor’s favor in an action on that claim in a court of appeals.

★ B. Accounting for Collections in Dispute

1. Disputed collections credited to the deposit account shall be accounted for separately and shall remain available in that account, regardless of the closing of an appropriation or fund account, as provided in 10 U.S.C. 2410m(b), for settlement and payment of claims.

a. Availability of the disputed collected amounts expires 180 days after the expiration of the period for bringing an action on that claim in the United States Court of Federal Claims under section 10(a) of the Contract Disputes Act of 1978 (41 U.S.C. 609(a)), if within that 180 day period, no appeal on the claim is commenced at the ASBCA

under section 7 of that Act and no action on the claim is commenced in a court of the United States as provided in 10 U.S.C 2410m(b)(1)(A).

b. If not expiring under subparagraph 180802.B.1.a, above, availability of the disputed collected amounts expires as indicated below.

(1) In the case of a settlement of a claim, 180 days after the date of the settlement.

(2) In the case of a judgment rendered on the claim in an appeal to the ASBCA under section 7 of the Contract Disputes Act of 1978 or an action in a court of the United States, 180 days after the date on which the judgment becomes final and rendered not appealable.

2. While an amount is being separately accounted for and available in accordance with subparagraph 180802.B.1, above, the amount may be obligated or expended in whole or in part only on the basis of, and for the purpose described in subparagraph 180802.A.3, above.

3. All or part of an amount collected and accounted for in accordance with subparagraph 180802.A, determined to be repayable to the contractor, whether by settlement agreement or judgment, including payment or adjustment of interest or fees, promptly shall be disbursed. Timely reimbursement shall also be made to the Department of the Treasury Judgment Fund. The foregoing disbursed amounts shall be charged against or withdrawn from the deposit account X6501 and applicable account to which credited, except any interest accruing since the collection and ordered to be paid in accordance with the settlement or judgement shall be charged to the applicable, currently available, appropriation account.

4. Upon expiration of the period of availability of all or part of an amount credited to the deposit account in accordance with subparagraph 180702.A.2, amounts not obligated and expended, shall be withdrawn and credited as follows.

a. If an amount credited to the deposit account for an appropriation or fund account that closed for reasons other than those described under 31 U.S.C. 1552(a) or 31 U.S.C. 1555, the principal amount collected shall be properly credited to that appropriation or fund account and an adjustment shall be made of the amounts of the contract(s) for which the disputed collection arose. Any amounts for interest and fees shall be credited to the appropriate Treasury Miscellaneous Receipts accounts.

b. Amounts credited to the deposit account for an appropriation or fund account that was canceled, or subsequently canceled after the collection in accordance with 31 U.S.C. 1552(a) or 31 U.S.C. 1555, shall be withdrawn and credited to the appropriate Treasury Miscellaneous Receipts accounts. The principal amount shall be credited to the "Collection of Canceled Accounts Receivables" account (and the memorandum account adjusted, as appropriate). Interest and fees shall be credited to the "Miscellaneous Receipts-Defense" account. In the records maintained for the closed appropriation account and unclosed contracts associated with the collection,

the unobligated and obligated balances shall be adjusted to reflect the results of settlement or judgment, including any amount retained and adjusted for the amounts of the contract or contracts for which the disputed collection arose.

★ C. Reporting of Collections in Dispute

1. Reporting requirement. For all disputed collections from contractors from closed appropriations or fund accounts that are credited to and retained in a deposit account, an annual reporting requirement is imposed by Title 10, United States Code, section 2410m(c). A report shall be submitted to the Congress on the amounts available for obligation adjustments pursuant to the section, with the report including at minimum, the following information.

a. The total amount applicable to a closed appropriation or fund accounts that is available for obligation at the close of the fiscal year.

b. The total amount collected from contractors during the year preceding the year in which the report is submitted. This includes collected amounts in the deposit account that are transferred to the deposit account subhead for closed account disputed collections because of closure of the appropriation or fund account as of the end of the fiscal year being reported on (i.e., the section 2410m account).

c. The total amount disbursed in refund settlements or judgments in such preceding year applicable to collections retained for closed appropriation and fund accounts, and a description of the purpose for each disbursement.

d. The total amount returned to the U.S. Treasury in accordance with subparagraph 180802.B.4.b, above, in such preceding year.

2. Report submission. Each DFAS site having control and accounting responsibility for a departmentally designated deposit account is responsible for preparation and timely submission of the required report. The report shall be submitted in electronic spreadsheet format to the DFAS-Arlington, Accounting (DFAS-DAS), with the title, "Section 2410m, Closed Account Disputed Collection Report." Each line as described above shall be included in the report with either an amount or a zero, as appropriate. The description of each disbursement shall be, agency settlement agreement, or the board of contract appeals or court case reference. See Volume 6A of this Regulation for the several reports required to be submitted to the congress or congressional committees by the USD(C).

1809 LIST OF CONTRACTORS INDEBTED TO THE UNITED STATES

With the exception of debts managed by the DFAS-Indianapolis (DFAS-IN), Directorate for Transportation Payments, the DFAS-CO (BKR/CC) is the only DFAS office authorized to submit debtor information to the DFAS-IN for placement on the "List of Contractors Indebted to the United States" for offsetting any monies due from a contractor to the government. The list, normally referred to as the "Hold-up List," is the only publication of this type available to all government agencies. The list is published at least quarterly by the DFAS-IN.

1810 BANKRUPTCY

Within the Department, the contractor bankruptcy proof of claim filing functions have been consolidated at the DFAS Assistant General Counsel, DFAS-GA/CO. This consolidation does not include the assumption of the litigation function or the inclusion of individual bankruptcy cases by the DFAS-GA/CO. The litigation function remains with the cognizant DoD Component. Bankruptcy litigation is accomplished by the Department of Justice through the office of the cognizant U.S. Attorney. Prescribed actions, as detailed in subsections 1810.A through 1810.H, below, shall be taken when the procurement contracting office or contract administrative office receives notice of bankruptcy from the contractor or from another source.

A. Bankruptcy cases generally are time sensitive. When a notice of bankruptcy is received, immediate action is required. Government monetary claims and other rights may be adversely and irrevocably affected if not timely asserted.

B. When either the procurement contracting office or the contract administrative office receives information that bankruptcy proceedings have been initiated, the receiving office shall immediately notify the Office of General Counsel, DFAS-GA/CO, Defense Finance and Accounting Service, Box 182317, Columbus, OH 43218-2317.

C. This notification shall occur regardless of whether any contracts have fully been performed, closed, or terminated. At the same time, the DoD Component(s) shall notify any office designated within the cognizant department or agency to receive this information. Following are the cognizant General Counsel offices and their addresses where bankruptcy notices should be sent:

1. Defense Logistics Agency (DLA)
Office of General Counsel, ATTN: DG
8725 John J. Kingman Road, Suite 2533
Fort Belvoir, VA 22060-6221
2. Assistant Secretary of the Navy (Financial Management and Comptroller) (ASN (FM&C))
Office of Counsel
Room 4C719
The Pentagon, Washington, DC 20350-1100
3. Air Force Legal Services Agency-Contracts (AFLSA/JACN)
1501 Wilson Boulevard, Room 606
Arlington, VA 22209-2403
4. U.S. Army Litigation Center
901 North Stuart Street, Suite 400
Arlington, VA 22203-1837.
5. Defense Contract Management Agency (DCMA)

Office of General Counsel (DCMA-GC)
Metro Park
6350 Walker Lane, Suite 300
Alexandria, VA 22310-3241

D. At a minimum, the notification shall include:

1. The name of the contractor
2. The court in which the bankruptcy petition has been filed
3. The date of the filing of the bankruptcy petition
4. If known, the bankruptcy court docket number.

(NOTE: This notification shall be made regardless of whether it appears that the notice has been received late. The notification shall be made within 3 workdays of the receipt of the notice of bankruptcy. Notification by facsimile is encouraged.)

E. 15-day Report. The contracting office may receive a notice of bankruptcy from the debtor or the DFAS-GA/CO. When the contracting office receives notification of a bankruptcy, that office shall prepare and send a message to the DFAS-GA/CO, the Component's legal office noted in section 1810C, above, and any other office designated within the Department or agency to receive the report. The report shall be sent no later than 15 days after receipt of the notice of bankruptcy. If some of this information is not available, the report shall be sent reflecting all available information. To the extent possible, the report shall include the following information:

1. The name of the contractor
2. A list of the contracts involved
3. The amount of any potential claim against the contractor

(NOTE: Often, the amount of a potential claim will be an estimate. The contracting officer shall attempt to accurately calculate the amount of the debt with an understanding that filing of the proof of claim is time sensitive and shall attach a short explanation of how the debt arose. Documentation evidencing the existence of the debt also shall be attached whenever possible.)

4. Any property, and its location, in the possession of the contractor in which the Department claims an interest; e.g., government property made available to the contractor, such as government furnished equipment or government furnished property

(NOTE: A very common type of property in which the government claims an interest is the work-in-process that is associated with progress payments.)

5. Any claims the debtor may have asserted or presented to the Department
6. The bankruptcy court docket number of the proceeding, and the court in which the bankruptcy is pending
7. Available information concerning the deadline for submitting documents to the Bankruptcy Court, asserting the government's claims against the debtor.

F. Upon receipt of a notice from a contracting officer, the DFAS-GA/CO shall prepare a consolidated proof of claim on behalf of the Department. The proof of claim shall be forwarded to the appropriate U.S. Attorney's office for filing. A copy shall be sent to the DoJ's Central Intake Facility and to each DoD Component that has provided information for the consolidated proof of claim. DoD or agency copies of the proof of claim shall be sent to the cognizant offices designated in subsection 1810.C, above. The proof of claim shall identify the DFAS-GA/CO as the office designated to receive further notices and any funds received pursuant to the proceedings.

G. The filing of a bankruptcy petition has a major impact on business relationships with the contractor who has filed for bankruptcy protection. Many otherwise appropriate actions cannot be taken against a bankrupt contractor, and actions that may be legally taken against a contractor may have adverse consequences for the Department. The activity's legal office should be informed before any action is taken with regard to a contractor who has filed for bankruptcy.

H. In accordance with the FAR subpart 52.242-13, "Bankruptcy," should the contractor enter into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish, by certified mail, or electronic commerce method authorized by the contract, written notification of the bankruptcy to the contracting officer responsible for administering the contract. This notification shall be furnished within 5 days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the following:

1. The date on which the bankruptcy petition was filed.
2. The identity of the court in which the bankruptcy petition was filed.
3. A listing of government contract numbers and contracting offices for all government contracts with this contractor against which final payment has not been made.
4. FAR clause 52.242-13 states that this obligation remains in effect until final payment under the contract(s) is made. In addition, when FAR clause 52.242-13 is used, a copy of the notification provided to the contracting officer shall be mailed, at the same time and in the in the same manner, to the Defense Finance and Accounting Service, ATTN: DFAS-GA/CO, 3990 Broad Street, Columbus, OH 43219.